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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/812,423	03/29/2004	Hugh A. Reilly	24357E USA	1279

7590 10/12/2006

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EXAMINER

DONNELLY, JEROME W

ART UNIT	PAPER NUMBER
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3764

DATE MAILED: 10/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/812,423	Applicant(s) REILLY, HUGH A.	
	Examiner Jerome W. Donnelly	Art Unit 3764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) ____ is/are pending in the application. 18-31 35 36 38 and 40-42
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected. 18-20, 22-31 35 36 38 and 40-42
- 7) ☒ Claim(s) ____ is/are objected to. 21 15
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

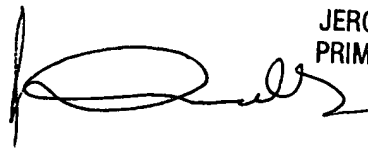
- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**JEROME DONNELLY
PRIMARY EXAMINER**



Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

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Claims 21 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 18-20, 22-31 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Squires.

In regard to claims 18-30 22-31 and 41 are Squires discloses a device and method of stretching (see Figs. 5 and 6) wherein the user places a lower end of a rod on the ground, grips the rod with both hands assumes a position (no golf ball claimed) and moves their arms to a position while keeping the lower end of the rod on the ground. (see fig. 5D).

Squires teaches a method of use wherein an instructor instructs a user to move the pole, while maintaining the end of the pole in contact with a support surface while stretching. To move the pole from side to side would have been obvious, so as to stretch the torso muscle of a user.

Claim 25 is obvious in view of Fig. 6D.

In regard to claim 26, the device of Squires discloses the option of placing a user's hand one on top of another, to place the opposite hand on top of the other would have been obvious given whether the person is right or left handed or however a user feels comfortable.

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In regard to claim 27 note that the users arms are straight in figs. 6D and 5D.

In regard to claim 31 the examiner notes that to hold onto a pole member and to, stretch is obvious in view of the figs. of Squires. The examiner also notes that to place a users hand on their hips while stretching is notoriously old and well known, also obvious in the art.

Claims 35 and 40 rejected under 35 U.S.C. 103(a) as being unpatentable over Squires in view of Lee.

In regard to claims 35 and 40 the examiner notes that to manufacture user manipulated poles as being extensible is known and obvious note the extensible poles of Lee.

Claims 36, 38 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Squires in view of Lee and Dunn.

In regard to claim 36 the examiner notes that tapered handles are obvious and known in the art in view of the tapered handles of Dunn. Handle are known to be tapered so as comfortably fit into the hand of a users.

In regard to claim 38 note the shoes (12) of Squires. Shoes of this sort are known to be manufactured of rubber.

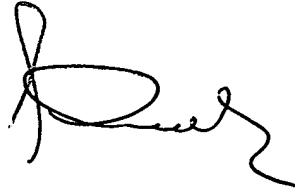
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Note the overall poles of Jones. Note the length adjustable pole of Trifaro et al

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Any inquiry concerning this communication should be directed to Jerome Donnelly at telephone number (571) 272-4975.

Jerome Donnelly

JEROME DONNELLY
PRIMARY EXAMINER

A handwritten signature in black ink, appearing to be 'J. Donnelly', written in a cursive style.